

## MEMORANDUM

GOE

Agenda Item No. 3(C)

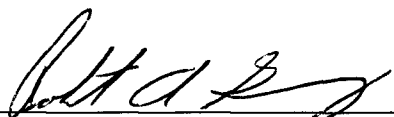
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**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners      **DATE:** November 9, 2004

**FROM:** Robert A. Ginsburg  
County Attorney      **SUBJECT:** Ordinance creating the  
Homestead Educational  
Facilities Benefit District

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The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Katy Sorenson.

  
\_\_\_\_\_  
Robert A. Ginsburg  
County Attorney

RAG/bw

# Memorandum

MIAMI-DADE  
COUNTY

**Date:**

**To:** Honorable Chairperson Barbara Carey-Shuler, Ed. D.  
and Members Board of County Commissioners

**From:** George M. Burgess  
County Manager



**Subject:** Ordinance creating and establishing the Homestead Educational Facilities Benefit District

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This ordinance creating and establishing the Homestead Educational Facilities Benefit District will have no fiscal impact on the County.

fiscal05304



# MEMORANDUM

(Revised)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** September 21, 2004

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 13(L)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor

Agenda Item No. 13(L)

Veto \_\_\_\_\_

9-21-04

Override \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE CREATING AND ESTABLISHING THE HOMESTEAD EDUCATIONAL FACILITIES BENEFIT DISTRICT ("EFBD" OR "HOMESTEAD EFBD"), UPON APPROVAL OF AN INTERLOCAL AGREEMENT WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY AND THE CITY OF HOMESTEAD; PROVIDING FOR HOMESTEAD EFBD NAME, DESCRIPTION, BOUNDARIES, POWERS AND DUTIES; PROVIDING FOR EXERCISE OF CERTAIN EFBD POWERS, INCLUDING FINANCING AND NON-AD VALOREM ASSESSMENT POWERS, UPON EXECUTION OF INTERLOCAL AGREEMENT BY EFBD; PROVIDING FOR EFBD BOARD OF SUPERVISORS; PROVIDING QUALIFICATIONS, TERMS OF OFFICE, QUORUM AND ELECTIONS FOR BOARD OF SUPERVISORS; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE**

**WHEREAS**, the Florida Legislature enacted Sections 1013.355-1013.365, Florida Statutes (the "Act"), to encourage and authorize public cooperation among district school boards, local general purpose governments, and benefited private interests in order to implement financing for timely construction and maintenance of school facilities, including traditional public schools and charter schools; and

**WHEREAS**, the Florida Legislature further enacted the Act to provide efficient alternative mechanisms and incentives to allow district school boards, local governments and benefited private development interests to share costs of construction and maintenance of public educational facilities necessary to accommodate new growth and development, through the creation of Educational Facilities Benefit Districts; and

**WHEREAS**, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners (the "County Commission") the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

**WHEREAS**, Article VIII, Section 6 of the Florida Constitution provides for exclusive authority in the County Commission to establish all local governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

**WHEREAS**, Miami-Dade County (the "County"), with the consent and approval by Interlocal Agreement of the City of Homestead (the "City") and The School Board of Miami-Dade County, Florida (the "School Board") acting as the governing body of the School District of Miami-Dade County, Florida (the "School District"), desires to create and establish an Educational Facilities Benefit District to be known as the Homestead Educational Facilities Benefit District (the "EFBD"), within the lands described in Exhibit A hereto; and

**WHEREAS**, an Interlocal Agreement has been agreed to by the City and the School Board providing for the creation of the EFBD and the EFBD boundaries and procedures (the "Interlocal Agreement"), and a public hearing has been conducted by the County Commission in accordance with the requirements and procedures of the Miami-Dade County Home Rule Charter and Code at which the factors set forth in Chapters 1013 and 189, Florida Statutes, have been considered; and

**WHEREAS**, the landowners within the EFBD boundaries have submitted to the County at time of public hearing their written consent to creation of the EFBD and the inclusion of all assessable lands within the EFBD boundaries; and

**WHEREAS**, the EFBD will constitute a timely, efficient, effective, responsive and economic way to establish educational facilities in the area, thereby addressing planning, management and

financing needs for creation of educational facilities therein without overburdening the County and the School District and their taxpayers; and

**WHEREAS**, the creation of the EFBD is consistent with the applicable elements or portions of the State comprehensive plan and the Miami-Dade County Comprehensive Development Master Plan; and

**WHEREAS**, the creation of the EFBD is the best alternative available for delivering the educational facilities to the area that will be served by the EFBD and will benefit present and future landowners within the EFBD by accelerating construction of necessary educational facilities in close proximity to benefited landowners' property and assuring those landowners and their successors access to such educational facilities; and

**WHEREAS**, the area of land within the EFBD boundaries is of sufficient size, is sufficiently compact and is sufficiently contiguous to be appropriate for inclusion within an educational facilities benefit district; and

**WHEREAS**, the area that will be served by the EFBD is amenable to separate special district government; and

**WHEREAS**, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 1013, Florida Statutes; and

**WHEREAS**, the Miami-Dade County Board of County Commissioners finds the EFBD shall have those powers authorized by Section 1013.355, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the EFBD have such powers,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. Consistent with and pursuant to that Interlocal Agreement previously approved by the School Board and the City of Homestead, and approved by this Board on even date herewith, the Homestead Educational Facilities Benefit District is hereby created and established over the real property described in Exhibit A hereto.

Section 3. The external boundaries of the EFBD shall be as depicted on the location map attached hereto and incorporated herein as Exhibit A. The EFBD boundaries may be expanded upon petition by the landowners whose lands are to be included in the EFBD, together with the written consent of the School Board, the County and the City, and the enactment of an ordinance by the Miami-Dade County Board of County Commissioners.

Section 4. The name of the EFBD shall be the "Homestead Educational Facilities Benefit District."

Section 5. A governing Board of Supervisors shall exercise the powers of the EFBD, and shall consist of seven members. The initial members of the Board of Supervisors shall be named by the following entities as follows: School Board-Three members; City-One member; County-One member; Landowner-Two members.

The initial representatives of the School Board, City, and County shall serve terms of four years. The first above-named representative of the Landowner shall serve a term of four years; the remaining representative of the Landowner shall serve a term of two years.

Following the expiration of the initial terms, subsequent representatives of the School Board, City, and County shall be appointed to the Governing Board in accordance with such procedures as each of the School Board, City, and County may adopt, respectively. The Landowner's representatives shall be elected in accordance with applicable law.

Election procedures shall be established by the Board of Supervisors and shall provide a date of the election in the same month every election year. Compensation of Board members shall be determined by the Board of Supervisors.

A quorum of the Board of Supervisors shall consist of a majority of the members appointed to office, provided that at least 4 members have been appointed.

Section 6. The EFBD is hereby created for the purposes set forth in Chapter 1013, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter, and pursuant to the Act and Section 189.4041, Florida Statutes, and this Ordinance. The duties of the EFBD shall be as prescribed in the Act, including but not limited to the duty to implement financing of construction of public schools to serve new growth and development within the EFBD boundaries, and such duties as prescribed by the Interlocal Agreement described herein.

Section 7. The charter for the EFBD shall be the Act.

Section 8. The Miami-Dade County Board of County Commissioners hereby grants to the EFBD all powers authorized pursuant to Section 1013.355(4), Florida Statutes, and Chapter 189, Florida Statutes and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers, which include, without limitation, the following:

- a. To finance, construct and maintain educational facilities within the EFBD boundaries.
- b. To sue and be sued in the name of the EFBD; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of real and personal property or any estate therein; and to make and execute contracts and other instruments necessary or convenient to exercise its powers.



- c. To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to the public bidding or competitive negotiations required of local general purpose governments.
- d. To borrow money and accept gifts; to apply for unused grants or loans of money or other property from the United States, the State, a unit of local government, or any person for any EFBD purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any EFBD purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- e. To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the EFBD, the conduct of the business of the EFBD, and the maintenance of records and documents of the EFBD.
- f. To maintain an office at such place or places as it may designate within the EFBD or within the City of Homestead.
- g. To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the EFBD is authorized to undertake and facilities or property of any nature for use of the EFBD to carry out any of the purposes authorized by Section 1013.355, Florida Statutes.
- h. To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness pursuant to Section 1013.355, Florida Statutes, for periods not longer than thirty (30) years, provided such bonds, certificates, warrants, notes, or other indebtedness shall only be guaranteed by non-ad valorem assessments legally imposed by the EFBD and other available sources of funds provided in Section 1013.355, Florida Statutes, and shall not pledge the full faith and credit of any local general purpose government or the School Board.
- i. To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by Section 1013.355, Florida Statutes, and to accept funding from local and state agencies as provided in Section 1013.355, Florida Statutes.
- j. To levy, impose, collect, and enforce non-ad valorem assessments, as defined by Section 197.3632(1)(d), Florida Statutes, pursuant to Section 1013.355, Florida Statutes, Chapters 125 and 166, Florida Statutes, and Sections 197.3631, 197.3632, and 197.3635, Florida Statutes, and any other authority provided by law, as they may be amended from time to time.
- k. To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in Section 1013.355, Florida Statutes.

Exercise of the above-described powers shall be limited to the powers necessary and appropriate to execution of the above-described Interlocal Agreement with the County, the School Board and the City, until such Agreement has been lawfully executed and is binding upon the EFBD.

Section 9. All bonds issued by the EFBD maturing over a period of more than five (5) years pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 10. No bond, debt or other obligation of the EFBD, nor any default thereon, shall constitute a debt or obligation of, or a pledge of the full faith and credit of, the County, the School Board or the City, except upon the express approval and agreement of the Miami-Dade County Board of County Commissioners, the School Board or the City Council, as the case may be.

Section 11. Notwithstanding any power granted to the EFBD pursuant to this Ordinance, neither the EFBD nor any real or personal property or revenue in the EFBD shall, solely by reason of the EFBD's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, special taxing districts or special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 12. An annual audit of the EFBD financial statements for the School Board, the County, and the City shall be completed in accordance with generally accepted Government Auditing Standards by an independent certified public accountant. At a minimum, the financial statements for the EFBD shall include a balance sheet, statement of revenues, expenditures and charges in fund equity and combining statements prepared in accordance with generally accepted accounting principles. Required supplementary information from the EFBD shall include a schedule of construction in progress to reflect annual activity of the EFBD.

The independent auditor shall determine whether the EFBD has complied with the applicable laws and regulations including, but not limited to, Section 1013.355, Florida Statutes, this Interlocal Agreement, the Impact Fee Documents (as defined in the Interlocal Agreement) and any funding agreement between the parties. As required by generally accepted Government Auditing Standards, the auditor shall prepare a report on the results of tests of compliance. This report, which may be included in either the report on the financial audit or a separate report, shall contain a statement of positive assurance on those items that were tested for compliance and negative assurance on those items not tested. It shall also include all material instances of non-compliance. The auditor shall also report on deficiencies noted in the internal control structure designed to provide reasonable assurance that the EFBD is managing funds in compliance with applicable laws, regulations, and contract terms, and resources are safeguarded against waste, loss, and misuse, and that reliable data is obtained, maintained and fairly disclosed in reports.

As it relates to the use of the Impact Fees, the School Board and auditors designated by School Board, the City, and/or the County shall have the right to perform an audit of the public records related to the use of the Impact Fees for any construction of public educational facilities within the EFBD. For purposes of this provision, the contractor and its subcontractors and consultants doing construction for the EFBD shall be required to keep such full and detailed accounts as may be necessary for proper financial management under this Interlocal Agreement and the Impact Fee Documents, and maintain necessary internal controls that shall be satisfactory to the School Board and the County. Auditors shall be afforded access to all fee payer and/or contractor records, books, correspondence, receipts, vouchers, memoranda and similar data, excluding confidential personnel records, relating to the contract projects. The fee payer and/or the contractor, its subcontractors, and consultants shall preserve all such records for a period of four (4) years after final payment or for such longer periods as may be required by law.

These records may not be destroyed or disposed of unless prior authorization is given by the Director of Records Retention of the Miami-Dade County Public Schools.

In addition to the foregoing, the EFBD shall provide the School Board, the County, and the City with a cumulative monthly accounting of the Special Assessments levied and collected in order to allow the parties to monitor the EFBD's obligations.

All records such as, but not limited to, construction, financial, correspondence, instructions, memoranda, bid estimate sheets, proposal documentation, back charge documentation, canceled checks, reports and other related records produced and maintained by the contractor, its subcontractors, and consultants relating to public educational facilities funded by the Impact Fees shall be deemed public records, and shall be made available for audit, review or copying by the School Board and/or the County, or auditors designated by the School Board and/or the County upon reasonable notice.

The audit reports from the EFBD shall be provided to the School Board, the County, and the City no later than one hundred eighty (180) calendar days following the close of the EFBD's fiscal year.

Section 13. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 14. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of the Miami-Dade County.

Section 15. This ordinance shall become effective upon the later of the following dates: (1) the effective date of the Interlocal Agreement described herein, by and among all of the School Board, the

City of Homestead and the County, and (2) ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
To form and legal sufficiency:

RA6

Prepared by:

JA6/RA6

Joni Armstrong Coffey

Sponsored by Commissioner Katy Sorenson

**EXHIBIT A**

**LOCATION MAP AND METES AND BOUNDS DESCRIPTION**

**TO BE PROVIDED**